

**IN THE UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

IN RE:

DENISE GOINS) Case Number 01-30388JKF
Debtor,) Related to Document No. 60
) Chapter 13
)
)
)

ORDER DENYING MOTION FOR UNCLAIMED FUNDS

Generally, funds deposited for the benefit of a creditor cannot be refunded to a debtor because such funds are presumed to be property of and owned by the specific creditor until shown otherwise. Although 28 U.S.C. §2042 allows for distribution of funds held by the Court to a claimant entitled to such money on petition to the Court, notice must first be given to the United States Attorney and *full proof of the right thereto* shown in the *Motion*. Here, the *Motion* lacks reference to any documentary proof of entitlement, or other proof that the claimed funds are property of the Debtor, and alternatively, what, if any, portion of the funds are owned by Ellington Acquistion c/o Owcen Loan Servicing.

Furthermore, the *Motion* fails to comply with this Court' Local Rules and Local Forms regarding "captioning" of pleadings, specifically, *Local Rule 9004-1, Electronic Case Filing Procedure #8*, and/or *Bankruptcy Rule 9011*, as the *Motion* and order do not contain a proper caption.

AND NOW, this **13th** day of **September, 2007**, upon consideration of the Debtor's **Motion for Release of Unclaimed Funds** (filed at Document Number 77), for the above reasons, it is hereby **ORDERED** that the *Motion for Release of Unclaimed Funds* is **DENIED**, without prejudice.

Judith K. Fitzgerald

Judith K. Fitzgerald ljm
Judge, US Bankruptcy Court

Case Administrator to mail to:

Ronda Winnecour, Esq.
Debtor
Counsel for the Debtor

FILED
SEP 13 2007
CLERK, U.S. BANKRUPTCY COURT
WEST. DIST. OF PENNSYLVANIA